

salience the adage ‘third time’s a charm’ has in daily life, it is a poor” maxim for the amendment of his pleadings. *See South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080, 2102 (2018) (Roberts, C.J., dissenting). That proposed complaint plainly did not address the issues Defendants raised in their motions to dismiss. The Court called a status conference and warned Plaintiff that he had one more chance to address Defendants’ motions to dismiss. Doc. [31]. Plaintiff then filed yet another Motion for Leave to File an Amended Complaint, Doc. [34].

Defendants’ Response in Opposition points out that Plaintiff’s latest Motion for Leave failed to comply with Local Rule 4.07, which requires that “at the time any motion for leave to amend any pleading is filed,” the “amended pleading itself must be submitted” to the Court. E.D. Mo. L.R. 4.07. Defendants also point out that it is unclear whether the City of Arnold Police Department remains a named Defendant in the proposed Amended Complaint. Doc. [36] at 2 n.1. Defendants also make compelling arguments as to why allowing Plaintiff to file his latest Amended Complaint would be futile. *See Zutz v. Nelson*, 601 F.3d 842, 850 (8th Cir. 2010) (explaining futility in the context of a motion for leave to amend means the amended complaint could not withstand a motion to dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure).

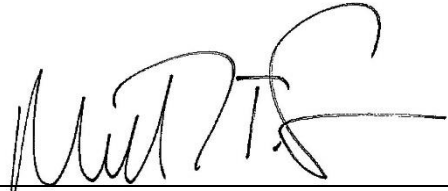
Despite Defendants’ Response pointing out what appear to be significant issues with Plaintiff’s latest proposed Amended Complaint, Plaintiff chose not to file a reply memorandum. While filing a reply memorandum generally is not required, see E.D. Mo. L.R. 4.01(C), the Court will require Plaintiff to file one in this instance to respond to the points raised in Defendants’ Response. Plaintiff’s Reply, of course, will be governed by Rule 11, meaning that, by submitting it, Plaintiff’s Counsel will be certifying that “the

claims, defenses, and other legal contentions” within the Reply “are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law.” Fed. R. Civ. P. 11(b).

Accordingly,

IT IS HEREBY ORDERED that, consistent with this Memorandum and Order and no later than **Monday, November 20, 2023**, Plaintiff must file, under penalty of Rule 11 sanctions, a Reply Memorandum to his Motion for Leave to File an Amended Complaint, Doc. [34]. The failure to timely do so will result in the denial of Plaintiff’s Motion for Leave to File an Amended Complaint.

Dated this 9th day of November 2023.



MATTHEW T. SCHELP
UNITED STATES DISTRICT JUDGE